

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Mark A. REILEY

Serial Number: 10/657,907

Filing Date: September 9, 2003

Title: FACET ARTHROPLASTY DEVICES  
AND METHODS

Group Art Unit: 3738

Examiner: David J. Isabella

CONFIRMATION NO: 5636

ELECTRONICALLY FILED ON: June 12, 2006

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 CFR §1.97**

Sir:

Applicant hereby submits an Information Disclosure Statement along with attached form PTO/SB/08. A copy of each listed publication is submitted, if required, pursuant to 37 CFR §§1.97-1.98, as indicated below.

Applicant respectfully requests that the listed information be considered by the Examiner and be made of record in the above-identified application. Applicant further requests that the Examiner initial and return the attached form PTO/SB/08 in accordance with MPEP §609.

Applicant reserves the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, prior art or material to patentability as defined in §1.56.

- A. ☒ 37 CFR §1.97(b). This Information Disclosure Statement should be considered by the Office because:
- ☐ (1) It is being filed within 3 months of the filing date of a national application and is other than a continued prosecution application under §1.53(d);  
-- OR --
  - ☐ (2) It is being filed within 3 months of entry of the national stage as set forth in §1.491 in an international application;  
-- OR --
  - ☒ (3) It is being filed before the mailing of a first Office action on the merits;  
-- OR --
  - ☐ (4) It is being filed before the mailing of a first Office action after the filing of a request for continued examination under §1.114.
- B. ☐ 37 CFR §1.97(c). Although this Information Disclosure Statement is being filed after the period specified in 37 CFR §1.97(b), above, it is filed before the mailing date of the earlier of (1) a final office action under §1.113, (2) a notice of allowance under §1.311, or (3) an action that otherwise closes prosecution on the merits, this Information Disclosure Statement should be considered because it is accompanied by one of:
- ☐ a statement as specified in §1.97(e) provided concurrently herewith;  
-- OR --
  - ☐ a fee of \$180.00 as set forth in §1.17(p) authorized below, enclosed, or included with the payment of other papers filed together with this statement.
- C. ☐ 37 CFR §1.97(d). Although this Information Disclosure Statement is being filed after the mailing date of the earlier of (1) a final office action under §1.113 or (2) a notice of allowance under §1.311, it is being filed before payment of the issue fee and should be considered because it is accompanied by:
- i. a statement as specified in §1.97(e);  
-- AND --
  - ii. a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this Statement.
- D. ☐ 37 CFR §1.97(e). Statement.
- ☐ A statement is provided herewith to satisfy the requirement under 37 CFR §§1.97(c);  
-- AND/OR --
  - ☐ A statement is provided herewith to satisfy the requirement under 37 CFR §§1.97(d);  
-- AND/OR --
  - ☐ A copy of a dated communication from a foreign patent office clearly showing that the information disclosure statement is being submitted within 3 months of the filing date on the communication is provided in lieu of a statement under 37 C.F.R. § 1.97(e)(1) as provided for under MPEP 609.04(b) V.
- E. ☐ Statement Under 37 C.F.R. §1.704(d). Each item of information contained in the information disclosure statement was first cited in a communication from a foreign patent office in a counterpart application that was received by an individual designated in § 1.56(c) not more than thirty (30) days prior to the filing of this information disclosure statement. This statement is made pursuant to the

requirements of 37 C.F.R. §1.704(d) to avoid reduction of the period of adjustment of the patent term for Applicant(s) delay.

F. ☒ 37 CFR §1.98(a)(2). The content of the Information Disclosure Statement is as follows:

☐ Copies of each of the references listed on the attached Form PTO/SB/08 are enclosed herewith.

-- OR --

☒ Copies of U.S. Patent Documents (issued patents and patent publications) listed on the attached Form PTO/SB/08 are NOT enclosed.

-- AND/OR --

☒ Copies of Foreign Patent Documents and/or Non Patent Literature Documents listed on the attached Form PTO/SB/08 are enclosed in accordance with 37 CFR §1.98 (a)(2).

-- AND/OR --

☐ Copies of pending unpublished U.S. patent applications are enclosed in accordance with 37 CFR §1.98(a)(2)(iii).

G. ☒ 37 CFR §1.98(a)(3). The Information Disclosure Statement includes non-English patents and/or references.

☐ Pursuant to 37 CFR §1.98(a)(3)(i), a concise explanation of the relevance of each patent, publication or other information provided that is not in English is provided herewith.

☐ Pursuant to MPEP 609(B), an English language copy of a foreign search report is submitted herewith to satisfy the requirement for a concise explanation where non-English language information is cited in the search report.

-- OR --

☐ A concise explanation of the relevance of each patent, publication or other information provided that is not in English is as follows: \_\_\_\_\_

☒ Pursuant to 37 CFR §1.98(a)(3)(ii), a copy of a translation, or a portion thereof, of the non-English language reference(s) is provided herewith.

FR 2726459, FR 2749155, FR 2844180 and WO 02/43603 A1 were published in French. The English language abstracts and the drawings are sufficient to convey the scope of their disclosure.

Should the Examiner believe that a complete translation of any of the above mentioned publications is necessary to understand their disclosure, Applicant(s) will endeavor to provide such translations at the Examiner's request.

H. ☐ 37 CFR §1.98(d). Copies of patents, publications and pending U.S. patent applications, or other information specified in 37 C.F.R. § 1.98(a) are not provided herewith because:

☐ Pursuant to 37 CFR §1.98(d)(1) the information was previously submitted in an Information Disclosure Statement for another application under which this application claims priority for an earlier effective filing date under 35 U.S.C. 120.

Application in which the information was submitted: \_\_\_\_\_

Information Disclosure Statement(s) filed on: \_\_\_\_\_

AND

☐ The information disclosure statement submitted in the earlier application complied with paragraphs (a) through (c) of 37 CFR §1.98.

- I. ☒ *Fee Authorization.* The Commissioner is hereby authorized to charge the above-referenced fees of \$0.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 23-2415 (Docket No.29914-701.405).

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

Dated: June 12, 2006

By: 

Cecily Anne O'Regan, Reg. No. 37,448

650 Page Mill Road  
Palo Alto, CA 94304-1050  
(650) 493-9300  
Customer No. 021971

Under the paperwork Reduction Act of 1995, no persons required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/657,907
				Filing Date	September 9, 2003
				First Named Inventor	Mark A. Reiley
				Art Unit	3738
				Examiner Name	David J. Isabella
Sheet	1	Of	3	Attorney Docket Number	29914-701.405

## U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Document Number Number-Kind Code <sup>2</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	272.	US 2002/0065557 A1	05-30-2002	Goble et al.	
	273.	US 2003/0004572 A1	01-02-2003	Goble et al.	
	274.	US 2003/0125740 A1	07-03-2003	Khanna	
	275.	US 2003/0181914 A1	09-25-2003	Johnson et al.	
	276.	US 2004/0006391 A1	01-08-2004	Reiley	
	277.	US 2004/0049272 A1	03-11-2004	Reiley	
	278.	US 2004/0049274 A1	03-11-2004	Reiley	
	279.	US 2004/0049275 A1	03-11-2004	Reiley	
	280.	US 2004/0049276 A1	03-11-2004	Reiley	
	281.	US 2004/0049277 A1	03-11-2004	Reiley	
	282.	US 2004/0049278 A1	03-11-2004	Reiley	
	283.	US 2004/0049281 A1	03-11-2004	Reiley	
	284.	US 2004/0111154 A1	06-10-2004	Reiley	
	285.	US 2005/0015146 A1	01-20-2005	Louis et al.	
	286.	US 2005/0027361 A1	02-03-2005	Reiley	
	287.	US 2005/0033434 A1	02-10-2005	Berry	
	288.	US 2005/0043799 A1	02-24-2005	Reiley	
	289.	US 2005/0055096 A1	03-10-2005	Serhan et al.	
	290.	US 2005/0119748 A1	06-02-2005	Reiley et al.	
	291.	US 2005/0137705 A1	06-23-2005	Reiley	
	292.	US 2005/0137706 A1	06-23-2005	Reiley	
	293.	US 2005/0143818 A1	06-30-2005	Yuan et al.	
	294.	US 2005/0149190 A1	07-07-2005	Reiley	
	295.	US 2005/0234552 A1	10-20-2005	Reiley	

Examiner Signature	Date Considered
--------------------	-----------------

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup>Enter Office that issued the document, by the two-letter code (WIPO Standard ST. 3). <sup>4</sup>For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup>Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup>Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

Under the paperwork Reduction Act of 1995, no persons required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/657,907
				Filing Date	September 9, 2003
				First Named Inventor	Mark A. Reiley
				Art Unit	3738
				Examiner Name	David J. Isabella
Sheet	2	Of	3	Attorney Docket Number	29914-701.405

## U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Document Number Number-Kind Code <sup>2</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	296.	US 2005/0235508 A1	10-27-2005	Augostino et al.	
	297.	US 2005/0240264 A1	10-27-2005	Tokish, JR. et al.	
	298.	US 2005/0240265 A1	10-27-2005	Kuiper et al.	
	299.	US 2005/0240266 A1	10-27-2005	Kuiper et al.	
	300.	US 2005/0251256 A1	11-10-2005	Reiley	
	301.	US 2005/0261770 A1	11-24-2005	Kuiper et al.	
	302.	US 2005/0267579 A1	12-01-2005	Reiley et al.	
	303.	US 2005/0283238 A1	12-22-2005	Reiley	
	304.	US 2006/0009847 A1	01-12-2006	Reiley	
	305.	US 2006/0009848 A1	01-12-2006	Reiley	
	306.	US 2006/0009849 A1	01-12-2006	Reiley	
	307.	US 2006/0041211 A1	02-23-2006	Hawkinson	
	308.	US 2006/0041311 A1	02-23-2006	McLeer	
	309.	US 2006/0052785 A1	02-09-2006	Augostino et al.	
	310.	US 2006/0058791 A1	03-16-2006	Broman et al.	
	311.	US 2006/0079895 A1	04-13-2006	McLeer	
	312.	US 2006/0085072 A1	04-20-2006	Funk et al.	
	313.	US 2006/0085075 A1	04-20-2006	McLeer	
	314.	US 2006/0100707 A1	05-11-2006	Stinson et al.	
	315.	US 2006/0100709 A1	05-11-2006	Reiley et al.	
	316.	US 3,596,656	08-03-1971	Kaute	
	317.	US 4,040,130	08-09-1977	Laure	
	318.	US 5,108,399	04-28-1992	Eitenmuller et al.	
	319.	US 5,312,409	05-17-1994	McLaughlin et al.	

Examiner Signature	Date Considered
--------------------	-----------------

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup>Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup>For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup>Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup>Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.*

Under the paperwork Reduction Act of 1995, no persons required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/657,907
				Filing Date	September 9, 2003
				First Named Inventor	Mark A. Reiley
				Art Unit	3738
				Examiner Name	David J. Isabella
Sheet	3	Of	3	Attorney Docket Number	29914-701.405

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number Number-Kind Code <sup>2</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	320.	US 5,314,486	05-24-1994	Zang et al.	
	321.	US 5,350,380	09-27-1994	Goble et al.	
	322.	US 5,458,641	10-17-1995	Ramirez Jimenez	
	323.	US 5,609,641	03-11-1997	Johnson et al.	
	324.	US 5,649,930	07-22-1997	Kertzner	
	325.	US 5,662,651	09-02-1997	Tornier et al.	
	326.	US 5,683,391	11-04-1997	Boyd	
	327.	US 5,704,941	01-06-1998	Jacober et al.	
	328.	US 6,214,012 B1	04-10-2001	Karpman et al.	
	329.	US 6,514,253 B1	02-04-2003	Yao	
	330.	US 6,712,849 B2	03-30-2004	Re et al.	
	331.	US 6,949,123	09-27-2005	Reiley	
	332.	US 6,974,478 B2	12-13-2005	Reiley	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document Country Code <sup>3</sup> - Number <sup>2</sup> - Kind Code <sup>3</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
	333.	EP 1254639 A1	11-06-2002	Industrias Quirurgicas De Levante, S.L.		
	334.	FR 2726459 (in French with English Abstract)	05-10-1996	Desauge Jean Pierre		
	335.	FR 2749155 (in French with English Abstract)	12-05-1997	Albert P. Alby		
	336.	FR 2844180 (in French with English Abstract)	03-12-2004	Spinevision		
	337.	WO 02/43603 A1 (in French with English Abstract)	06-06-2002	Graf		

Examiner Signature	Date Considered
--------------------	-----------------

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup>Enter Office that issued the document, by the two-letter code (WIPO Standard ST. 3). <sup>4</sup>For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup>Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup>Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.